



Department of Public Safety and Correctional Services

Division of Parole and Probation

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PATRICK MCGEE
DIRECTOR

February 4, 2009

The Honorable Galen R. Clagett, Chair
House Subcommittee on Public Safety and Administration
Room 410A, Lowe House Office Building
Annapolis, Maryland 21401-1991

Re: Division of Parole and Probation – Operating Budget Analysis Response

Dear Delegate Clagett:

Attached for your reference is the Division's response pertaining to issues and recommendations contained in the analysis of the proposed fiscal year 2010 budget for the Division of Parole and Probation. I hope this information is responsive to the issues and concerns that were raised by the analyst. Should the subcommittee have any other questions or concerns, the Division will be happy to explore those matters and provide you with additional information.

The Division of Parole and Probation (DPP) operates 48 offices with at least one in every county to provide supervision/monitoring of approximately 46,000 offenders who are on probation for criminal offenses, 9,400 who have been released from prison on parole or mandatory supervision release, and 15,600 drinking drivers sentenced to probation. Supervising/monitoring these 71,200 offenders is complicated by the fact that many offenders have multiple cases/sentences with various conditions, involving the Circuit and District Courts and the Maryland Parole Commission, as well as comparable authorities from other states. The 71,200 offenders currently being supervised or monitored represent approximately 116,700 cases.

The subcommittee's interest in and support for the Division's ongoing efforts to strengthen community supervision and to manage effectively are greatly appreciated.

Sincerely,

Patrick McGee
Director

Attachment

- c: Members of the House Subcommittee on Public Safety and Administration
 - Mr. Joshua Watters, Staff, House Committee on Appropriations
 - Ms. Rebecca J. Moore, Policy Analyst, DLS
 - Ms. Diane Lucas, Supervising Budget Analyst, DBM
 - Secretary Gary D. Maynard, DPSCS
 - Deputy Secretary G. Lawrence Franklin, DPSCS
 - Assistant Secretary/Chief of Staff Tomi Hiers, DPSCS
 - Assistant Secretary Richard B. Rosenblatt, DPSCS
 - Assistant Secretary David Bezanson, DPSCS
 - Director Susan Dooley, Financial Services, DPSCS
 - Director Rhea L. Harris, Office of Legislative Affairs, DPSCS

DIVISION OF PAROLE AND PROBATION
Department of Public Safety and Correctional Services

Performance Analysis: Managing for Results

Issue: **DPP should comment on why it believes active cases are again on the rise and how it is managing the increase within its existing supervision resources.**

Response:

The term “active cases” describes those parole, probation, and mandatory release cases that are being supervised or monitored by the Division of Parole and Probation (DPP). Every active case corresponds to an individual under supervision or monitoring. These offenders are subject to various types of contact with DPP, ranging from kiosk check-ins to direct parole and probation agent or drinking driver monitor contacts.

The number of active cases for parolees and mandatory releasees remained virtually unchanged in fiscal year 2007 and fiscal year 2008. However, there was a dramatic rise in the number of probationers placed with DPP during fiscal year 2007 when the number of new probationers increased by 4,397 over the previous fiscal year. It is important to note that DPP cannot control the volume of offenders placed with it by the courts, the Maryland Parole Commission (MPC), or the Division of Correction (DOC). Among these entities, the largest increase of offenders came from the courts.

DPP has responded to the increasing number of cases by establishing caseload types based upon risk and, where appropriate, placing low-risk offenders in larger caseloads that permit fewer direct contacts with a parole and probation agent. Additionally, the use of kiosks has increased, obviating or reducing the need for face-to-face contacts between offenders and parole and probation agents. DPP will continue to employ evidence-based practices and assign supervision agents to those jurisdictions containing the greatest number of high-risk offenders.

Issue: **DPP should comment on why it is struggling to meet its target and whether this is contributing to the reported increases in active caseloads, as seen in Exhibit 1. The agency should also discuss how the loss of 47 clerical and administrative support positions due to fiscal 2009 cost containment may impact agency operations relating to this measure.**

Response:

Once the new Offender Case Management System (OCMS) is implemented, the current labor-intensive, case-closing process will be eliminated. In fiscal year 2007, DPP timely closed 88% of its active cases within 60 days of expiration. However, during fiscal year

2008 the number dropped to 78%. In part, the decrease can be attributed to the fact that closing cases is an administrative function that involves forms processing or data entry by three distinct positions within DPP: the agent or monitor, the agent's or monitor's immediate supervisor, and the clerical personnel who must process each case closure. The reduction in clerical and administrative support staff positions due to fiscal year 2009 cost containment continues to contribute to the slower pace of the case-closing process.

FISCAL 2009 ACTIONS

Proposed Budget

Issue: DPP should comment on how the high budgeted turnover and potential loss of additional positions will impact the agency's operations and agent caseloads.

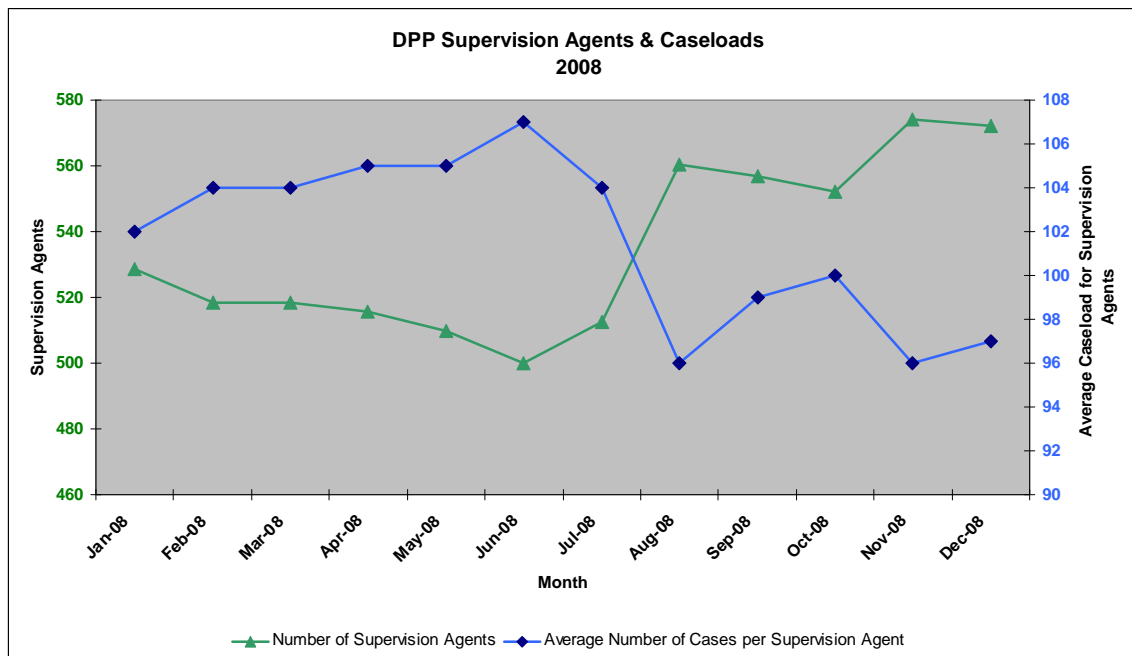
Response:

DPP was able to fill over 130 vacant agent positions and eight monitor positions during the last part of fiscal year 2008 and early fiscal year 2009. This effort allowed DPP to reduce caseloads for Violence Prevention Initiative (VPI) and sex offender caseloads while experiencing only slight increases in the size of general caseloads. (See Chart #1) In order to better manage its resources, DPP has shifted from reliance on caseload size as a driving factor to focusing available resources based on the offender's risk for new criminal behavior. The Department of Public Safety and Correctional Services (the Department) is developing a standard risk instrument for use throughout the Department to ensure consistent application and assessment of risk criteria.

DPP targets the highest risk offenders for close supervision. The lowest risk offenders receive minimal supervision which is consistent with research that shows that over supervising low-risk offenders actually creates violations and does more harm than good in achieving successful supervision outcomes.

The potential loss of additional positions may impact medium-risk offenders who may be more likely to benefit from intervention strategies. DPP plans to target available resources based on risk in order to minimize adverse effects on agency operations and agent caseloads. DPP believes it is well positioned to manage the impact resulting from budgetary constraints.

Chart #1



Issue: DPP should comment on the reliability of its current vehicles and whether it is still on schedule for completing its fleet enhancement plan in fiscal 2010. The Department of Legislative Service (DLS) recommends language restricting the appropriation for motor vehicle purchases to that purpose only.

Response:

DPP has an aging fleet of vehicles. In fiscal year 2008 seven vehicles were removed from service due to high maintenance and repair costs. In the first six months of fiscal year 2009, ten vehicles were removed from service. The remainder of the fleet -185 vehicles - is generally reliable.

DPP's 5-year plan is incomplete due to cost containment measures taken in fiscal year 2009; the appropriation for additional vehicles was reduced by \$155,280.

DPP agrees with the Department of Legislative Service's recommendation to include language restricting the appropriation for motor vehicle purchases to that purpose only.

ISSUES

1. Monitoring Tools for Use on High-risk and Sexual Offenders

Issue: DPSCS should comment on what has caused the delay in implementing enhanced supervision tools, such as GPS tracking, polygraph testing, and computer monitoring for sexual and high-risk offenders, and when it expects these tools to become available. The department should explain what types of enhanced supervision are being utilized in place of these tools.

Response:

DPP implemented Global Positioning System (GPS) tracking in January 2009 and is developing a Memorandum of Understanding (MOU) with the Maryland State Police (MSP) to conduct polygraph examinations for sexual offenders under DPP's supervision. DPP expects to issue a Request for Proposals (RFP) for computer monitoring in February 2009. DPP began working on these initiatives in 2007 when the funds were initially appropriated; however, the procurement process to secure these enhanced supervision tools has taken longer than anticipated.

In order to facilitate the implementation of GPS more expeditiously, DPP sought an existing governmental contract in which it could participate. The GPS contract in use by the Western States Contracting Alliance (WSCA) met the Division's requirements. The process, however, proved to be quite extensive and involved the development of documents allowing DPP to participate in the contract that contained provisions that are consistent with Maryland laws and regulations; obtaining the approval of the Department of Budget and Management (DBM); acceptance of the agreement by the WSCA vendor; and, the approval from Washington State (the lead state for this contract in the WSCA consortium). This process was finalized in September 2008. DPP met with the vendor in October 2008 to plan the implementation. To date, staff have been trained and policy and procedure have been developed and published.

DPP drafted a scope of work and consulted with the Department's procurement office to develop a Request for Proposals (RFP) that would provide polygraph examinations for sexual offenders whom supervising agents believe are engaging in deviant activities or otherwise are non-compliant with the conditions of community supervision. The first RFP was issued in April 2008 but was withdrawn in May 2008 prior to the bid submission date due to concerns and questions raised by DBM procurement staff and some prospective vendors. To gain further information to effectively revise the RFP, DPP contacted the State Police Polygraph Unit for input which led to discussions on whether DPP and the State Police could collaborate on this initiative. DPP proceeded with the revision of the RFP with the intent to issue it if necessary; however, DPP and the MSP have now agreed that this is a viable collaboration and have drafted a Memorandum of Understanding (MOU) that provides for the MSP to conduct polygraph examinations for offenders referred for testing by DPP.

Based on initial research, DPP and the Department's Information Technology and Communications Division's (ITCD) procurement office originally believed that there was only one vendor capable of providing the computer monitoring services at the scope and level required to effectively implement this special condition. While ITCD procurement worked with the prospective vendor and legal counsel to develop the requisite sole source documents, DPP became aware of another vendor that purported to offer the same services. In performing its due diligence, ITCD procurement determined that the information on the scope of services offered by the new vendor warranted the end of the pursuit of the sole source determination and advised that an RFP should be issued. DPP drafted the scope of work and worked with ITCD procurement to develop the RFP which is currently under review by the Department of Information Technology. DPP expects the RFP to be issued within the week.

DPP is closely monitoring sexual and high-risk offenders through assignment to specialized caseloads that have a reduced offender to agent ratio. Offenders are required to report and call in more frequently and agents make more frequent home contacts. In addition, the sexual offender's progress and compliance with the supervision plan is routinely staffed by the Collaborative Offender Management/Enforced Treatment (COM/ET) team that is comprised of the agent, treatment provider, state's attorney, and members of the local law enforcement sex offense unit/registry. Non-compliance with the supervision conditions is addressed with immediate intervention and appropriate action.

2. Technical Violators and Community Corrections

Issue: DPP should identify what steps it is taking to be able to track revocations for technical violations versus a new offense in the future.

Response:

The Department of Public Safety and Correctional Services (the Department) will form a workgroup that will include several agencies within the Department to include the Division of Correction (DOC), the Division of Parole and Probation (DPP), the Maryland Parole Commission (MPC), the Office of Planning Policy Regulations and Statistics (OPPRS), and the Information Technology and Communications Division (ITCD). The goals of the workgroup will be to determine the factors contributing to the inability to accurately report and track technical violators, to clearly distinguish technical violations from new offenses, and to develop technology solutions to accurately identify the number of technical violations. To successfully accomplish this, an evaluation will have to be completed of three independent data systems (OBSCIS I, OBSCIS II, and PARIS), which do not currently have the ability to share and/or cross reference relevant data.

The Department estimates that an information technology solution will have to be developed and will require procurement of contractual programmer services. These

services are estimated at a cost of approximately one hundred thousand dollars (\$100,000) with an estimated completion by early fiscal year 2010.

Based upon collection of technical violation data for one year, the Department will be able to start analyzing this data beginning in early 2011. This analysis will guide the Department in accurately determining the impact of technical violators on supervision and correctional functions, as well as allow an assessment of possible alternatives for handling the technical violator population.

Issue: DPP should comment on its progress toward developing intermediate sanctions and a “halfway in/out” model of sanctioning. The agency should also identify any statutory changes or agreements with other governmental entities that would be required in order to implement the model.

Response:

DPP collaborated with the Maryland Parole Commission (MPC) and the Division of Correction (DOC) to develop a model release order. The new order was adopted in January 2009 and authorizes DPP to implement electronic monitoring at its discretion. DPP exercises this discretion using established risk criteria that are founded on evidence-based practices. This additional capability will allow DPP to increase the surveillance (including GPS) of these offenders, and enable DPP to apply appropriate interventions.

DPP continues to explore opportunities to expand available options for the utilization of intermediate sanctions for those parolees, mandatory releasees, and probationers who fail to fulfill their conditions of release but who do not require long-term confinement. DPP is exploring the use of the pre-release centers and halfway houses as “halfway in/out” community sanctions sites for technical violators.

DPP is researching the relevant statutory/regulatory requirements and agreements with other governmental agencies that would be required to implement this model. This review includes statutes and regulations, related to the due process in diverting offenders/inmates from incarceration. This effort requires input and agreement of the courts, MPC and other agencies within the Department of Public Safety and Correctional Services.

Issue: DLS recommends that DPSCS be required to submit a report to the budget committees assessing the impact of technical violators on the supervision and correctional functions. The report should estimate the impact of technical violators on both the population and the department’s budget. The department should also analyze and report on possible alternatives for handling technical violators, specifically

looking into statutory restrictions for reincarceration, dedicating programs or facilities specifically to technical violator populations, and providing rewards or good time credits for compliant offenders.

Response:

Please refer to Recommended Actions for the agency's response.

3. Violence Prevention Initiative

Issue: The agency should address how and why the criteria are changing and whether that will impact current VPI caseloads.

Response:

The goal of the Violence Prevention Initiative (VPI) is to reduce the number of offenders under DPP supervision who are involved in homicides and non-fatal shootings. When the initiative began in August 2007, the screening criteria, developed in consultation with Dr. James Austin, were based on demographic and arrest data of homicide suspects and victims under DPP supervision in Baltimore City.

DPP continues to work with Dr. Austin to monitor the effectiveness of the VPI strategy and to further refine the screening process. Incorporating the work of Dr. Richard Berk of the University of Pennsylvania, who conducted similar research on the parole and probation population in Philadelphia, Dr. Austin reviewed information from the VPI Database and the Watch Center and developed a revised version of the VPI Screener which was piloted in one hundred cases in October 2008. The new screening instrument (which intake reviewers began using on all supervision cases in January 2009) still includes age (younger than twenty-nine) as one of the criteria, but no longer considers the underlying offense as a determining factor. An offender may thus be under supervision for a misdemeanor, but still be referred to a VPI unit on the basis of a prior record which, instead of seven adult arrests, includes thirteen total arrests – one of which must be for a firearm offense. DPP will continue to revise and update the screening criteria based on continued analysis of the offender population who are involved in homicide and non-fatal shootings.

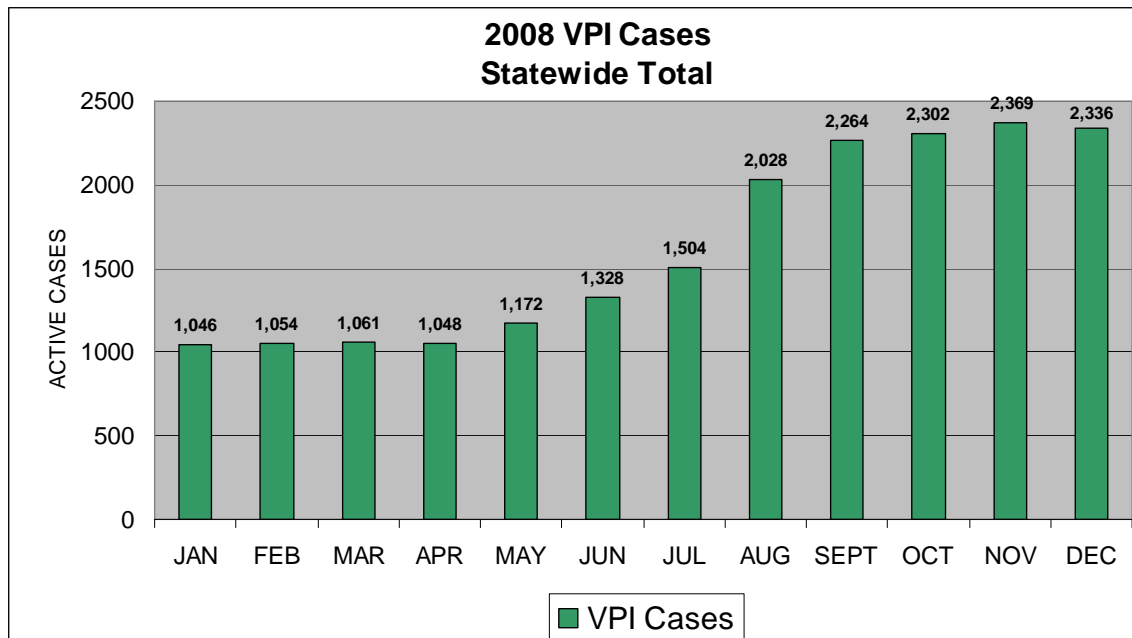
Dr. Austin believes that the new criteria will ultimately result in fewer cases being identified for VPI but that the ones identified will be more likely to represent those offenders most likely to be involved in future violent behavior. DPP closely monitors VPI caseload size and has not seen any significant increases after the initial spike that resulted from re-screening using juvenile arrest data.

Issue: DPP should comment on why it has seen a spiked increase in the number of VPI cases since August 2008.

Response:

In August 2008, after DPP was granted access to juvenile records through the Department of Juvenile Services' information system known as ASSIST, all offenders who otherwise qualified except for the fact that they did not have seven adult arrests were re-screened using the ASSIST data. The addition of the juvenile arrests to the total number of arrests resulted in the identification of additional potentially high-risk offenders who were transferred into VPI Units.

As noted above and as shown in the bar graph below, DPP believes that the increase has leveled off.



Issue: DLS recommends that the division submit a report to the budget committees identifying possible outcome measures for determining the effectiveness of using the VPI containment model of intensive supervision.

Response:

Please refer to Recommended Actions for the agency's response.

RECOMMENDED ACTIONS

1. Adopt the following narrative:

Technical Violator Impact Assessment: The committees direct the Department of Public Safety and Correctional Services to submit a report assessing the impact of technical violators on the supervision and correctional functions. The report should specifically estimate the population and fiscal impact on the Division of Correction and Division of Parole and Probation. The report should also analyze possible alternatives for handling the technical violator population, specifically examining statutory restrictions for reincarceration, dedicating programs or facilities specifically to the technical violator population, and providing rewards or good time credits for compliant offenders. The report shall be submitted to the budget committees no later than December 1, 2009.

Response:

This is a Departmental issue and the proposed language may be more appropriately recommended for the Office of the Secretary because it impacts multiple agencies within the Department. Also, based on the timeline presented for development of an information technology solution for data collection, a new due date of December 2010 should be considered.

Therefore, DPP respectfully requests that the Subcommittee reject the analyst's recommendation as proposed.

2. Add the following language to the general fund appropriation:

, provided that \$351,414 of this appropriation made for the purpose of purchasing motor vehicles may only be expended for that purpose. Funds not expended for this restricted purpose may not be transferred by budget amendment or otherwise to any other purpose, and shall revert to the general funds.

Response:

The agency concurs with the analyst's recommendation.

3. Adopt the following narrative:

Measuring the Effectiveness of the Violence Prevention Initiative: The committees direct the Division of Parole and Probation (DPP) to submit a

report identifying potential outcome measures for determining the effectiveness of using the Violence Prevention Initiative (VPI) containment model of intensive supervision. VPI has been a major initiative of the current administration, yet after one year of implementation, there are no clear indicators of its effectiveness. Development and careful monitoring of VPI outcome measurements will assist DPP and the General Assembly in ensuring that the focused dedication of resources for this program is producing the desired outcome of preventing violent offenders from reoffending and contributing to increased recidivism rates. The report shall be submitted to the committees no later than September 1, 2009.

Response:

The agency concurs with the analyst's recommendation.